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FILED

DISTRICT COURT OF GUAM

APR 30 2007 msa

MARY L.M. MORAN  
CLERK OF COURT

7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF GUAM

10  
11 MARESA L. ANDERSON,  
12 Plaintiff,

13 vs.

14 UNITED STATES OF AMERICA,  
15 Defendant.  
16

CIVIL CASE NO. 07-00003

MOTION TO STRIKE REQUEST  
FOR A JURY TRIAL

17 The United States hereby moves to strike Plaintiff's request for a jury trial. The request  
18 for a jury trial is included in Plaintiff's Complaint against the United States. The Complaint is  
19 based on the Federal Tort Claims Act (FTCA).

20 In actions against the United States, there is no right to a trial by jury unless the statute so  
21 provides. United States v. Nuestadt, 18 S.Ct. 1294, 1297, 366 U.S. 696, 701, n.10(1961). Since  
22 the sovereign need not allow suit against it, it is free to allow suit on whatever terms it chooses,  
23 and may deny a jury trial. McElrath v. United States, 12 Otto (102 U.S.C.A. Sect. 2402 and Sect  
24 1346, et.seq. Suits against the United States are not suits at common law within the meaning of  
25 the Seventh Amendment, since they exist only because of the legislative waiver of sovereign  
26 immunity. There is no constitutional right to a jury trial under the FTCA. Glidden Co. v.  
27 Zdanok, 370 U.S. 530, 82 S.Ct. 1459 (1962).  
28

1 The Plaintiff's request for a trial jury should be struck from the Complaint and any trial  
2 must be by the Court.

3 So moved, this 27<sup>th</sup> day of April 2007.

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5 LEONARDO M. RAPADAS  
6 United States Attorney  
7 Districts of Guam and NMI

8 BY: 

9 MIKEL W. SCHWAB  
10 Assistant U.S. Attorney  
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CERTIFICATE OF SERVICE

I, FRANCES B. LEON GUERRERO, working in the U.S. Attorney's Office, in the District of Guam, hereby certify that on April 30, 2007, I caused to be served by personal service, a copy of the foregoing document, "Motion to Strike Request for a Jury Trial", Maresa L. Anderson v. United States, Civil Case No. 07-00003, the following attorney of record:

The Law Offices of John S. Unpingco & Associates LLC  
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FRANCES B. LEON GUERRERO  
Legal Assistant